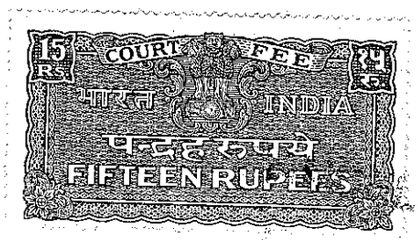

IN THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR

Division Bench

M.A. No. 271 /2005 (D.B.)

(Appeal U/s 173 M.V. Act. 1988 Valued at Rs. 17,55,000/-)

APPELLANTS
CLAIMANTS

1. Smt. Rani Thakur Wd/o Late Basant Thakur, Age- 22 years.
2. Smt. Urvarshi Thakur W/o Ramswarup Thakur, Age- 50 years.
3. Tarun Thakur S/o Late Basant Thakur, Aged about 4 years (Minor) Through : Mother.
4. Kumari Ritu Thakur D/o Late Basant Thakur, Age 2 years (Minor)
Both applicant No. 3 & 4 minor Through : Mother Applicant No.1, Smt. Rani Thakur
All Resident of C/o Vijay Thakur, Shivaji Chowk, Masjid ke Aage, Santoshi Nagar, Tikarapara, Tah. & Distt. Raipur (C.G.).

P.R. No. 591/05 A-Civil
Presented by Shri
dated 28/12/05

VERSUS

RESPONDENTS
NON-APPLICANTS

1. Sant Kumar Gilhare, S/o Shri Shesh Narayan Gilhare, Age- 23 years, R/o. Devpuri, Near Jaitkhambh Mandir, P.S. Tikarapara, Tah. & Distt. Raipur (C.G.). (Driver of offending Vehicle).
2. Chandalram Mandhani, R/o C/o. M.S. Lal Medicine Centre, Shop No.8, Devpuri, P.S. Tikarapara, Tah. & Distt. Raipur (C.G.) (Owner of offending vehicle)
3. The New India Assurance Company Ltd., Divisional Office, First Floor, Madina Building, Jail Road, Raipur, District- Raipur (C.G.) Certificate No. 450300/31/03/01374, Valid for 17.09.2003 to 16.09.2004 (Insurer).

APPEAL U/S 173 M.V. ACT 1988 VALUED AT RS. 17,55,000/-

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(14)

आदेश पत्रक

मामला क्रमांक M.A. 271 सन् 2005

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH: -

HON'BLE SHRI A.K. PATNAIK, CJ
& HON'BLE SHRI SATISH K. AGNIHOTRI, J.

10/05/2005:

M.A.No.271 of 2005

Heard Mr. Yashwant Tiwari, learned counsel for the appellants and Mr. Prashant Jayaswal, Sr. Advocate with Mr. V. Pandey, learned counsel for respondent No.3. Though notices have been served by registered post on respondents 1 & 2, the said respondents 1 & 2 have not appeared.

This is an appeal against the order dated 06.01.2005 passed by the Third Additional Motor Accident Claims Tribunal, Raipur (C.G.) dismissing the Claim Case No.40 of 2004 filed by the appellants.

The aforesaid Claim Case was fixed for evidence on 06.01.2005 and the appellant No.1 did not appear before the Tribunal on the said date and had filed an adjournment application stating therein that she had been operated for appendicectomy and she was bed ridden. The application for adjournment was supported by a medical certificate. The said application for adjournment was however rejected by the Tribunal and the Claim Case of the appellants was dismissed by the impugned order / award.

Having considered the submissions made by the learned counsel for the parties, we are of the view that since the application for adjournment has been filed by appellant No.1 on the ground of an operation having been suffered by her and on the ground that she was bed ridden on the date on which the case was posted for hearing, the

[पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(15)

आदेश पत्रक

मामला क्रमांक M.A. 271 सन् 2005

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Tribunal should have granted adjournment in the matter particularly when a medical certificate had been filed in support of the application for adjournment.

We accordingly, set aside the impugned order / award dated 06.01.2005 passed by Third Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Claim Case No.40 of 2004 and remand the matter back to the aforesaid Tribunal for fresh award in accordance with law after giving all due opportunity to the parties. The Tribunal will first consider the application under Section 140 of the Motor Vehicles Act, 1988 said to have been filed by the appellants.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Brajesh.

[पीछे देखिये